Subchapter C. Assessment of Maintenance Taxes, Surcharges, and Fees
28 TAC §1.414

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §1.414 concerning the assessment of maintenance taxes, surcharges and fees collected from the sale of insurance policies. The amendments to §1.414 implement Senate Bill 1455, 89th Legislature, 2025.

EXPLANATION. Amending §1.414 is necessary to implement SB 1455, which amended the Insurance Code and Labor Code to replace the collection of maintenance taxes for workers' compensation insurance with the collection of workers' compensation surcharges.

The amendments to §1.414 replace "maintenance tax" with "surcharge" and add "surcharge" to subsections pertaining to workers' compensation to conform with the terminology change in SB 1455.

In addition, the proposed amendments include nonsubstantive rule drafting and formatting changes for plain language and to conform the section to the agency's current style and to improve the rule's clarity. These changes include lowercasing "Commissioner" and adding the title of statutory citations for transparency.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Amy Maddox, chief financial officer of the Financial Services Office in the Administrative Operations Division, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amendments, other than that imposed by statute. Ms. Maddox made this determination because the proposed amendment does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendment.

Ms. Maddox does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Ms. Maddox expects that administering the proposed amendment will have the public benefit of ensuring that TDI's rules conform to SB 1455 and allow for Texas-based workers' compensation insurers to be more competitive out of state.

Ms. Maddox expects that the proposed amendment will not increase the cost of compliance with §1.414 because it does not impose requirements beyond those in the statute. SB 1455 requires that the same maintenance taxes paid as before will now be classified as surcharges for workers' compensation insurance. As a result, the cost associated with the change of terminology required by SB 1455 does not result from the enforcement or administration of the proposed amendment.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. Proposed §1.414 does not change the amount insurers will pay or cause any business operations to change for regulated entities. It only changes the term "maintenance taxes" to "surcharges." As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons. In addition, no rule amendments are required under Government Code §2001.0045 because the proposed §1.414 is necessary to implement legislation. The proposed rule implements SB 1455.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on August 31, 2026. Consistent with Government Code §2001.024(a)(8), TDI requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

The commissioner of insurance will also consider written and oral comments on the proposal in a public hearing under Docket No. 2870. This proposal will be part of a rule hearing docket that will begin at 10:00 a.m., central time, on August 25, 2026. TDI will hold the public hearing remotely using online resources and in person at the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin Texas 78701 in Room 2.035. Visit www.tdi.texas.gov/alert/event/index.html for more information on the proposed rule, hearing, and comment submission.

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STATUTORY AUTHORITY. TDI proposes amendments to §1.414 under Insurance Code §251.001 and §36.001.

Insurance Code §251.001 requires the commissioner to annually determine the rate of assessment of each maintenance tax or workers' compensation surcharge imposed under Title 3, Subtitle C of the Insurance Code.

Insurance Code §36.001 authorizes the commissioner to adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of the state.

CROSS-REFERENCE TO STATUTE. Section 1.414 implements SB 1455.

TEXT.

§1.414. Assessment of Maintenance Taxes, Surcharges, and Fees.

(a) Each calendar year by commissioner [~~Commissioner~~] order the department will assess rates for maintenance taxes, surcharges and fees on the gross premiums of insurers for the following lines of insurance:

(1) motor vehicle insurance, under Insurance Code §254.002, concerning Maximum Rate; Annual Adjustment;

(2) casualty insurance and fidelity, guaranty, and surety bonds, under Insurance Code §253.002, concerning Maximum Rate; Annual Adjustment;

(3) fire insurance and allied lines, including inland marine, under Insurance Code §252.002, concerning Maximum Rate; Annual Adjustment;

(4) workers' compensation insurance, under Insurance Code §255.002, concerning Maximum Rate; Annual Adjustment;

(5) workers' compensation insurance, under Labor Code §403.003, concerning Rate of Surcharge;

(6) workers' compensation insurance, under Labor Code §405.003, concerning Funding; Surcharge and Recovery of Surcharge by Insurers;

(7) workers' compensation insurance, under Labor Code §407A.301, concerning Surcharge for Division and Research Functions of Department;

(8) workers' compensation insurance, under Labor Code §407A.302, concerning Surcharge for Department; and

(9) title insurance, under Insurance Code §271.005, concerning Maximum Rate; Annual Adjustment.

(b) Each calendar year by commissioner [~~Commissioner~~] order the department will assess the rate for the maintenance tax to be assessed on gross premiums of insurers for life, health, and accident insurance and the gross considerations for annuity and endowment contracts, under Insurance Code §257.002, concerning Maximum Rate; Annual Adjustment.

(c) Each calendar year by commissioner [~~Commissioner~~] order the department will assess rates for maintenance taxes for the following entities:

(1) under Insurance Code §258.003, concerning Maximum Rate; Annual Adjustment, an amount per enrollee for:

(A) single service health maintenance organizations;

(B) multiservice health maintenance organizations; and

(C) limited service health maintenance organizations; and

(2) under Insurance Code §259.003, concerning Maximum Rate; Annual Adjustment, a rate of the correctly reported gross amount of administrative or service fees for third-party administrators.

(d) Each calendar year by commissioner [~~Commissioner~~] order the department will assess a surcharge rate [~~for maintenance tax~~] under Labor Code §405.003 for each certified self-insurer, to fund the Workers' Compensation Research and Evaluation Group. The rate will be calculated under Labor Code §407.103(b), concerning Self-Insurer Surcharge; Effect on General Surcharge, and it will be billed to the certified self-insurer by the Division of Workers' Compensation.

(e) Each calendar year by commissioner [~~Commissioner~~] order the department will assess a surcharge rate [~~for maintenance tax~~] under Labor Code §405.003 and §407A.301 for each workers' compensation self-insurance group, to fund the Workers' Compensation Research and Evaluation Group. The rate will be calculated under Labor Code §407.103(b).

(f) Each calendar year by commissioner [~~Commissioner~~] order the department will assess a surcharge rate [~~for maintenance tax~~] under Labor Code §407.103 and §407.104, concerning Collection of Surcharges and Fees; Administrative Violation, for each certified self-insurer. The rate will be calculated under Labor Code §407.103(b), and it will be billed to the certified self-insurer by the Division of Workers' Compensation.

(g) The maintenance tax and surcharge revenue need is calculated as the amount of revenue needed to reach the targeted year-end fund balance, considering [~~taking into account~~] the beginning balance, other expected [~~non-maintenance tax~~] revenues, and estimated expenditures. For each line of insurance:

(1) the assessment rate is calculated by dividing the revenue need by the estimated premium volume or assessment base; and

(2) if the calculated rate is above the statutory rate, the rate is set at the statutory maximum and any revenue shortfall is spread to the other maintenance tax or surcharge lines, increasing the revenue need and tax rates for the remaining lines.

(h) The taxes, surcharges and fees assessed by the commissioner [~~Commissioner~~] order issued under subsections (a), (b), (c), and (e) of this section will be payable and due to the Comptroller of Public Accounts on March 1 each year.

CERTIFICATION. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on July 16, 2026.

Signed by:
Jessica Barta
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Jessica Barta, General Counsel
Texas Department of Insurance